



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 10, 1992

Ms. Leah A. Curtis
Assistant Criminal District Attorney
Bexar County Justice Center
300 Dolorosa, Suite 4049
San Antonio, Texas 78205-3030

OR92-326

Dear Ms. Curtis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned RQ-370.

The Child Support Registry of the Bexar County Juvenile Probation Department has received a request for disclosure of the child-support payment history of a particular Bexar County resident. Bexar County contends that the requested information is excepted from public disclosure as a judicial record and by section 3(a)(1) of the Open Records Act, V.T.C.S. art. 6252-17a.

To participate in the federal Aid to Families With Dependent Children Program, states are required to maintain state-wide child-support plans. *See* 42 U.S.C. § 602(a). To participate in this program, the Texas legislature has enacted Human Resources Code chapter 76 which requires the Texas Attorney General to administer a state-wide plan for the recording and collection of court-ordered child-support payments. Hum. Res. Code § 76.01. Chapter 76 authorizes the Texas Attorney General to enter into agreements with state agencies to provide assistance in implementing the child-support plan. *Id.* § 76.002(c), (d). Pursuant to a "Cooperative Agreement . . . for Child Support Enforcement Services" executed by the Attorney General of Texas and Bexar County, Bexar County has agreed to maintain records to monitor court-ordered child-support payments for all cases in Bexar County. *See* "Cooperative Agreement Pursuant to the Texas Interlocal Cooperation Act for Child Support Enforcement Services Between the Office of the Attorney General of Texas and the County of Bexar, Texas" at § B (Sept. 1, 1991). The records at issue are maintained by the Bexar County Juvenile Probation Department under the supervision of the Bexar County Juvenile Board.

The Open Records Act applies to governmental bodies or agencies. V.T.C.S. art. 6252-17a, § 3(A). The act does not apply to the judiciary. *Id.* § 2(1)(H).¹ This raises the threshold question whether the Bexar County Juvenile Probation Department is a governmental body, and thus whether the records are subject to the Open Records Act. In Open Records Decision No. 417 (1976) at 1 we ruled that the Dallas County Child-Support Department was a governmental body and thus child-support records maintained by that agency were subject to the Open Records Act. We conclude, on the basis of Open Records Decision No. 417, that the Bexar County Juvenile Probation Department, which has powers similar to those of the Dallas County Child-Support Department, is a governmental body and thus the child-support records maintained by the Bexar County Juvenile Probation Department are governmental records and thus are subject to the Open Records Act. *See* Hum. Res. Code §§ 152.0211 - .0214; *cf.* Open Records Decision No. 417 at 1.

Open Records Act section 3(a)(1) excepts from public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Human Resources Code section 76.006 provides in relevant part:

(a) All files and records of services provided under this chapter, including information concerning a custodial parent, noncustodial parent, child, and an alleged father of a child who has no presumed father, are confidential.

....

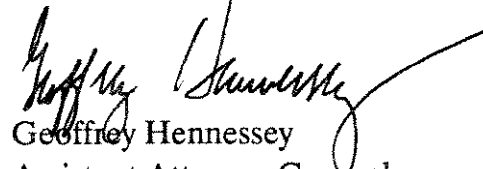
(c) Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support, paternity determination, parent locator, or aid to families with dependent children programs.

¹The Open Records Act does not, as you claim, except judicial records from public disclosure. Rather, the act states that it does not apply to the judiciary. V.T.C.S. art 6252-17a, § 2(1)(H). Consequently, "[t]he Open Records Act neither authorizes information held by the judiciary to be withheld nor requires it to be disclosed." Attorney General Opinion H-826 (1976) at 2. Unless there is a particular statute applicable, disclosure of judicial records is controlled by common law. *Id.* at 3.

The child-support payment records at issue are maintained by the Bexar County Juvenile Probation Department to assist in the implementation of the child-support enforcement plan of Human Resources Code chapter 76. We conclude that the requested child-support payment records are deemed confidential by law pursuant to Human Resources Code sections 76.006(a) and 76.006(c); and therefore, the records are excepted from public disclosure pursuant to Open Records Act section 3(a)(1). See Open Records Decision No. 417 (1984) at 2-4 (ruling that the records of the Dallas County Child Support Department were deemed confidential by law pursuant to, *inter alia*, Human Resources Code section 46.006, now section 76.006).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-326.

Very truly yours,



Geoffrey Hennessey
Assistant Attorney General
Opinions Committee

GH/lmm

Ref: RQ-370